

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1650 of 1996

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE G.D.KAMAT

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CHOBELAL RAMKISHAN

Versus

STATE OF GUJARAT

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Appearance:

MS KRISHNA U MISHRA for Petitioner

Mr.M.R. Anand, PUBLIC PROSECUTOR, with

Mr.L.R. Pujari, Addl. P.P., for Respondent No. 1

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CORAM : THE CHIEF JUSTICE G.D.KAMAT

Date of decision: 06/12/96

ORAL JUDGEMENT

Rule. To be heard forthwith.

The petitioner is incarcerated in Central Prison, Baroda since 7.12.1987. The petitioner was thereafter convicted for an offence under Section 302 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for life on 30th September, 1989. In the present Special Criminal Application, the petitioner claims his release on furlough on the grounds that he is entitled to furlough having been matured in September, 1993. It appears that furlough was granted by the prison authorities, but, however, the petitioner could not furnish sureties. The petitioner thereafter, approached this Court, vide Special Criminal Application No.1302 of 1996. That Special Criminal Application succeeded and by the order of the Court dated 19th September, 1996, the petitioner was directed to be released on bail on his furnishing a personal bond. Accordingly, petitioner furnished personal bond and he enjoyed furlough from 25th September, 1996 until 9th of October, 1996.

Mrs. Mishra says that since incarceration of the petitioner, the petitioner has enjoyed furlough only once in September / October, 1996 and that was his first furlough, which ought to be related as furlough for the year 1991. She, therefore, says that though the petitioner was released on furlough in September / October, 1996, the petitioner is entitled for his furlough for the year 1993.

I am unable to accept the contention of the learned counsel. The grant of furlough is governed by the provisions of the Prisons (Bombay Furlough and Parole) Rules, 1959. Rule 3 of the 1959 Rules speaks of grant of furlough to the prisoner. However, Note 3 of Rule 3 states as under :-

"3. When prisoner may be granted furlough.-

xxx xxx xxx

Note 3.-If at any time, a prisoner who could have been granted furlough is either not granted or is refused the same the period for which he could have been granted the furlough shall not be carried forward but shall lapse."

The aforesaid extracted Note 3 of Rule 3 is unambiguous and clear that even when the furlough is not granted or refused, the same cannot be carried forward for the subsequent year and on the contrary, it lapses. It is, therefore, clear that there is no carry forward rule so far as furloughs are concerned. In any event, the petitioner was released on furlough by the order of this Court on 19th September, 1996 and what is more, he has enjoyed the same between the period 25th of September, 1996 and 10th of October, 1996. That furlough must now be related to the year 1996 and the question of the same computing for the year 1991 cannot and does not arise. In this view of the matter, the petition fails and it is dismissed. Rule is discharged.

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(apj)